

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**      Page 1 of 2  
**DOCKET NO.: 2006-1859-LII-E   TCEQ ID: RN103246807   CASE NO.: 31500**  
**RESPONDENT NAME: KEVIN G. LOVE**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input checked="" type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 132 Surls Drive, Mabank, Henderson County</p> <p><b>TYPE OF OPERATION:</b> Landscape irrigation installer</p> <p><b>SMALL BUSINESS:</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> One complaint was received. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter. A complaint has been received, but the complainant has not indicated a desire to protest this action or speak at agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on December 3, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p style="padding-left: 20px;"><b>TCEQ Attorney:</b> Mr. Benjamin O. Thompson, Litigation Division, MC 175, (512) 239-1297  Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873</p> <p style="padding-left: 20px;"><b>TCEQ Enforcement Coordinator:</b> Ms. Libby Hogue, Air Enforcement Section, MC 219, (512) 239-1165</p> <p style="padding-left: 20px;"><b>TCEQ Regional Contact:</b> Mr. Noel Luper, Tyler Regional Office, MC R-5, (903) 535-5174</p> <p style="padding-left: 20px;"><b>Respondent:</b> Mr. Kevin G. Love, 111 RR 539, Fairfield, Texas 75840</p> <p style="padding-left: 20px;"><b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b> June 7, 2005</p> <p><b>Dates of Investigations Relating to this Case:</b> February 27, 2006</p> <p><b>Date of NOE Relating to this Case:</b> June 12, 2006</p> <p><b>Background Facts:</b> The EDPRP was filed on May 4, 2007. The Respondent received notice of the EDPRP on or about May 7, 2007. The Respondent has not filed a response or requested a hearing.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>LII:</b></p> <p>Failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing and irrigation system [30 TEX. ADMIN. Code § 344.4 and 30.5(a) and (b) and TEX. WATER CODE § 37.003; and TEX. OCCUPATIONS CODE § 1903.251].</p>	<p><b>Total Assessed:</b> \$250</p> <p><b>Total Deferred:</b> \$0</p> <p><b>Total Due to General Revenue:</b> \$250</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p><b>Site Compliance History Classification:</b> N/A</p> <p><b>Person Compliance History Classification:</b> N/A</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provision(s):</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Immediately, cease selling, designing, consulting, installing, maintaining, altering, repairing, or servicing landscape irrigation systems until properly licensed.</li> <li>2. Within 15 days, submit written certification and include detailed supporting documentation to demonstrate compliance with Ordering Provision 1.</li> </ol>



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

<b>DATES</b>	<b>Assigned</b>	09-Oct-2006	<b>Screening</b>	20-Oct-2006	<b>EPA Due</b>	
	<b>PCW</b>	05-Feb-2007				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Kevin G. Love		
<b>Reg. Ent. Ref. No.</b>	RN103246807		
<b>Facility/Site Region</b>	5-Tyler	<b>Major/Minor Source</b>	Minor Source

## CASE INFORMATION

<b>Enf./Case ID No.</b>	31500	<b>No. of Violations</b>	1
<b>Docket No.</b>	2006-1859-LII-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Irrigators	<b>Enf. Coordinator</b>	Cari-Michel La Caille
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$2,500

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$250
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: The respondent has not had any enforcement actions within the last five years.

<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	\$0
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Before NOV      NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes: The respondent does not meet the good faith criteria.

<b>Economic Benefit</b>	0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$37	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$500	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$250
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

<b>Final Penalty Amount</b>	\$250
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$250
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<b>DEFERRAL</b>	0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$250
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**Screening Date** 20-Oct-2006  
**Respondent** Kevin G. Love  
**Case ID No.** 31500  
**Reg. Ent. Reference No.** RN103246807  
**Media [Statute]** Irrigators  
**Enf. Coordinator** Cari-Michel La Caille

**Docket No.** 2006-1859-LII-E

**PCW**

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	no	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	no	0%
	Participation in a voluntary pollution reduction program	no	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	no	0%

**Adjustment Percentage (Subtotal 2)** 0%

#### >> Repeat Violator (Subtotal 3)

N/A

**Adjustment Percentage (Subtotal 3)** 0%

#### >> Compliance History Person Classification (Subtotal 7)

N/A

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

**Compliance History Notes**

The respondent has not had any enforcement actions within the last five years.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

<b>Screening Date</b>	20-Oct-2006	<b>Docket No.</b>	2006-1859-LII-E	<b>PCW</b>
<b>Respondent</b>	Kevin G. Love	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b>	31500	<small>PCW Revision May 19, 2005</small>		
<b>Reg. Ent. Reference No.</b>	RN103246807			
<b>Media [Statute]</b>	Irrigators			
<b>Enf. Coordinator</b>	Carl-Michel La Caille			
<b>Violation Number</b>	1			
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code §§ 344.4 and 30.5(a) and (b)			
<b>Secondary Rule Cite(s)</b>	Tex. Water Code § 37.003 and Tex. Occupations Code § 1903.251			
<b>Violation Description</b>	<p>Failure to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing or servicing an irrigation system. Specifically, Mr. Love installed an irrigation system at 132 Surls Drive, Mabank, Henderson County without an irrigator license (Landscape Irrigation License expired on December 31, 2004), as documented during a record review conducted on February 27, 2006. In addition, Mr. Love represented to the public that he could perform a service for which a license is required.</p>			
		<b>Base Penalty</b>	\$2,500	

**>> Environmental, Property and Human Health Matrix**

		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
<b>OR</b>	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

	<b>Falsification</b>	Major	Moderate	Minor	
	<input type="text"/>	X	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>

**Matrix Notes** 100% of the rule requirement was not met.

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

Number of Violation Events

<small>mark only one use a small x</small>	<small>daily</small>	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$250"/>
	<small>monthly</small>	<input type="text"/>	
	<small>quarterly</small>	<input type="text"/>	
	<small>semiannual</small>	<input type="text"/>	
	<small>annual</small>	<input type="text"/>	
	<small>single event</small>	X	

One single event is recommended.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount <input type="text" value="\$37"/>	Violation Final Penalty Total <input type="text" value="\$250"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$250"/>	

**Economic Benefit Worksheet**

Respondent Kevin G. Love  
 Case ID No. 31500  
 Reg. Ent. Reference No. RN103246807  
 Media [Statute] Irrigators  
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$500	27-Feb-2006	15-Aug-2007	1.5	\$37	n/a	\$37
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated amount required to obtain a valid Irrigation license, calculated from the date of the complaint through the expected date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$500****TOTAL** **\$37**

# Compliance History

Customer/Respondent/Owner-Operator:	CN601767379	LOVE, KEVIN G	Classification:	Rating:
Regulated Entity:	RN103246807	LOVE, KEVIN G	Classification:	Site Rating:
ID Number(s):				
Location:	113 JEFF ACRES ROAD, MABANK, TX, 75156			
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	October 17, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 17, 2001 to October 17, 2006			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Carl-Michel La Caille	Phone:	512-239-1387	

## Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

## Components (Multimedia) for the Site :

- |                        |   |
|------------------------|---|
| A.                     | Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. |
|                        | N/A   |
| B.                     | Any criminal convictions of the state of Texas and the federal government.  |
|                        | N/A   |
| C.                     | Chronic excessive emissions events.   |
|                        | N/A   |
| D.                     | The approval dates of investigations. (CCEDS Inv. Track. No.)   |
|                        | N/A   |
| E.                     | Written notices of violations (NOV). (CCEDS Inv. Track. No.)  |
|                        | N/A   |
| F.                     | Environmental audits.   |
|                        | N/A   |
| G.                     | Type of environmental management systems (EMSs).  |
|                        | N/A   |
| H.                     | Voluntary on-site compliance assessment dates.  |
|                        | N/A   |
| I.                     | Participation in a voluntary pollution reduction program.   |
|                        | N/A   |
| J.                     | Early compliance.   |
|                        | N/A   |
| Sites Outside of Texas |   |
|                        | N/A   |

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
KEVIN G. LOVE,  
RN103246807**

§  
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§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER DOCKET NO. 2006-1859-LII-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 37, TEXAS OCC. CODE ch. 1903, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Kevin G. Love ("Mr. Love").

The Commission makes the following Findings of Fact and Conclusions of Law:

### **FINDINGS OF FACT**

1. Mr. Love owns and operates a landscape irrigation business located at 113 Jeff Acres Road, Mabank, Henderson County, Texas.
2. Mr. Love sells, designs, consults, installs, maintains, alters, repairs, and/or services landscape irrigation systems.
3. During a record review compliance investigation conducted on February 27, 2006, a TCEQ Compliance Support Division investigator documented that Mr. Love failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing or servicing and irrigation system. Specifically, Mr. Love installed an irrigation system at 132 Surls Drive, Mabank, Henderson County without a valid irrigator license. In addition, Mr. Love represented to the public that he could perform a service for which a license is required.
4. Mr. Love received notice of the violation on or about June 14, 2006.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement



Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Kevin G. Love” (the “EDPRP”) in the TCEQ Chief Clerk’s office on May 4, 2007.

6. By letter dated May 4, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Love with notice of the EDPRP. According to the return receipt “green card,” Mr. Love received notice of the EDPRP on May 7, 2007, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Mr. Love received notice of the EDPRP, provided by the Executive Director. Mr. Love failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Love is subject to the jurisdiction of the TCEQ pursuant to TEXAS WATER CODE chs. 7 and 37, TEXAS OCC. CODE ch. 1903, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Love failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing or servicing and irrigation system, in violation of 30 TEX. ADMIN. CODE §§ 344.4 and 30.5(a) and (b); TEXAS WATER CODE § 37.003; and TEXAS OCC. CODE § 1903.251.
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Mr. Love with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 7, Mr. Love has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Love and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Love for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission’s jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

6. An administrative penalty in the amount of two hundred fifty dollars (\$250.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Love is assessed an administrative penalty in the amount of two hundred fifty dollars (\$250.00) for violations of TEX. WATER CODE ch. 37, TEXAS OCC. CODE ch. 1903, and rules of the TCEQ. The payment of this administrative penalty and Mr. Love's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Kevin G. Love; Docket No. 2006-1859-LII-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Mr. Love shall undertake the following technical requirements:
  - a. immediately upon the effective date of the Commission Order, Mr. Love shall cease selling, designing, consulting, installing, maintaining, altering, repairing, or servicing landscape irrigation systems until properly licensed in accordance with the requirements of 30 TEX. ADMIN. CODE ch. 344; and
  - b. Within 15 days after the effective date of the Commission Order, Mr. Love shall submit written certification as described below, and include detailed supporting documentation to demonstrate compliance with Corrective Action Ordering

Provision 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

and

Manager, Regulatory Compliance Section  
Compliance Support Division, MC-178  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Love. Mr. Love is ordered to give notice of this Order to personnel who maintain day-to-day control over the business operations referenced in this Order.
5. If Mr. Love fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Love's failure to comply is not a violation of this Order. Mr. Love shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Love shall notify the Executive Director within seven days after Mr. Love becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Love shall be made in writing to the Executive Director. Extensions are not effective until Mr. Love receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Love if the Executive Director determines that Mr. Love has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF BENJAMIN O. THOMPSON**

STATE OF TEXAS       §  
                                  §  
COUNTY OF TRAVIS   §

"My name is Benjamin O. Thompson. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Kevin G. Love" (the "EDPRP") with the Office of the Chief Clerk on May 4, 2007.

I sent the EDPRP to Mr. Love at his last known address on May 4, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Mr. Love received notice of the EDPRP on May 7, 2007, as evidenced by the signature on the card.

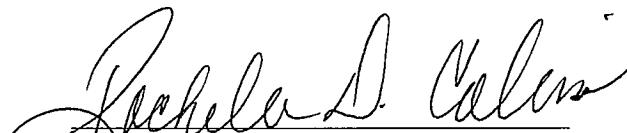
More than 20 days have elapsed since Mr. Love received notice of the EDPRP. Mr. Love failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference".



\_\_\_\_\_  
Benjamin O. Thompson  
Attorney  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Benjamin O. Thompson, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 11<sup>th</sup> day of September, A.D., 2007.

  
\_\_\_\_\_  
Notary Signature

Notary Stamp

